



miami-dade election reform coalition

FINAL REPORT

POLL CLOSING OBSERVATION AND BEYOND

**TOWARD CREATING A REPLICABLE MODEL
FOR CIVIC PARTICIPATION AND RESEARCH
IN THE AREA OF VOTING SYSTEM REFORM**

A REPORT OF THE MIAMI-DADE ELECTION REFORM COALITION

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EXECUTIVE SUMMARY

The Miami Dade Election Reform Coalition (MDERC or the “Coalition”), building on its experience and growing expertise in the area of citizen-based voting system oversight, has embarked on a project to create a replicable model for its poll closing observation that would achieve the twin goals of increased civic participation and the gathering of accurate and meaningful research data to be made publicly available for further study.¹ The ultimate goal of this project (hereinafter referred to as the ‘2006 Project’) is the formulation of strategies and policies so that every day citizens can advance the cause of voting system reform. Over the last several election cycles, both local and national, MDERC has organized a diverse group of volunteers to observe and make recommendations to local elections officials on ways to improve voting procedures. MDERC’s first report of the 2004 Presidential election entitled "Get It Right the First Time: Poll Closing Observation, Ballot Accounting and Electronic Voting Security"² (hereinafter “Get It Right”), gained national attention and was cited in the U.S. Government Accountability Office’s September 2005 report to Congressional Requesters titled "Elections: Federal Efforts to Improve Security and Reliability of Electronic Voting Systems Are Under Way, but Key Activities Need to Be Completed" (the “GAO Report”).³

In its 2006 Project, the Coalition sought to further refine its methodology and create a template for poll-closing observation that could be replicated throughout the country. MDERC decided to focus its study on the 2006 mid-term elections in Miami-Dade County, Florida. At the same time, MDERC agreed to train and supervise the Voter Integrity Alliance of Tampa Bay (“VIA Tampa Bay”) to develop and implement a similar model in Pinellas County, Florida. These efforts were intended to create "best practices" which would be shared with other citizens' groups interested in implementing similar observation projects around the country.

As set forth more fully below, the model that MDERC sought to refine in its 2006 Project was designed to achieve several goals:

1. empower members of the public to monitor poll closings while providing them with a structure for meaningful observation;
2. serve as a tool for civic participation;
3. serve as the jumping off point for further study and analysis;

¹ This report was made possible through a generous grant from the Ford Foundation and Verified Voting Foundation.

² This report can be found at:

<http://www.reformcoalition.org/index/StudiesReportsLetters.htm>. A copy of this report is attached as Exhibit A to this report. The Appendices to Get It Right may be found at the Web site.

³ The press release for the GAO Report can be accessed at: <http://www.gao.gov/new.items/d05956.pdf> The GAO Report (No. 05-956), can be found at <http://searching.gao.gov/query.html?qt=05-956&charset=iso-8859-1&ql=&x=8&y=6>.

4. illustrate the lack of transparency of current voting systems;
5. develop new methodologies for observation, study and analysis.

The 2006 Project began with a systematic outreach effort which relied heavily on creating interest within existing civic, community and labor groups, and students. MDERC also developed and implemented a training module that can be delivered in one hour in-person or telephonic training sessions. Furthermore, the Coalition developed clear and easy-to-use volunteer sign-up forms that can be disseminated electronically. Lastly, the Coalition deployed trained observers who successfully maneuvered the process and who put the Coalition's methodology to the test.

The 2006 Project led to the observation of 95 polling places in 124 precincts in Miami-Dade County (out of 749 total precincts), with at least two volunteer observers in each polling place. This represents a 16.56% coverage of Miami-Dade County's total precincts. Furthermore, MDERC received reports from observers at all but 4 of these polling places. The precincts observed had a total number of 207,584 registered voters or 19.1% of the registered voters in Miami-Dade County. When compared with the number of registered voters in Florida's other 67 counties, there are only 13 counties in the State of Florida where the number of registered voters is greater than the number covered by the volunteer observers in Miami-Dade for the 2006 Project. Analyzing the observation in terms of the race/ethnicity of the voters at the polls covered, these polls had 24.21% of all the White voters in the county (66,132 / 273,203); 14.54% of all the Black voters in the county (31,975 / 219,899); 18.39% of all the Hispanic voters in the county (96,495 / 524,827); and 18.8% of "other" voters (12,982 / 69,026).

Below is the Coalition's model for volunteer, citizen-based poll closing observation. The model, is the result of MDERC developing, testing and refining its methodology in actual elections. Moreover, the model is replicable across the country.

As set forth more fully below, the model begins with information gathering, standard form and document creation and outreach and recruitment. Central to the Coalition's model is a training method which is designed to be delivered in one hour sessions and is intended to provide observers with all of the tools necessary to observe a poll closing and to accurately gather and record data that can be used for later examination and study. The last component of the methodology, the observation itself, focuses on preparing for election day, selecting observation sites, gathering data, dealing with the media on election night. The section concludes with helpful hints and ideas for preparing for the aftermath of the observation, and turning the aftermath into yet another opportunity for civic engagement and civic participation,

INTRODUCTION

A. The history of the Miami-Dade Election Reform Coalition.

On the morning of September 10, 2002, citizens of Miami-Dade County went to the polls full of hope. New electronic voting equipment promised to erase from their collective memories the bitterness of the November 2000 election that left many citizens feeling disenfranchised and wondering about the state of their democracy. By 10:00 a.m. that morning, the bitterness had begun to rise again as the new technology, rather than correcting the breakdowns of the past, introduced citizens to new voting problems and a new vocabulary for equipment meltdown and disenfranchisement. From this maelstrom arose a grassroots citizens group determined to hold accountable government bureaucrats and politicians, as well as voting machine vendors and technicians, to prevent them from depriving citizens of their right to vote and to have that vote counted.

Thus, the Miami-Dade Election Reform Coalition was born. Holding its first meeting on the afternoon of September 19, 2002, in the fellowship hall of the Apostolic Revival Center in Liberty City, this diverse group of Miami-Dade County citizens believed that the only way to secure American democracy was through citizen oversight and involvement. On that afternoon in September, the church's meeting space was bursting at the seams with some twenty nonpartisan watchdog and activist groups, civil rights and civil liberties organizations, as well as more than twenty individual citizen-activists, academics and religious leaders. In spite of this group's varied issue-focus and political leanings, each and every individual in attendance voiced commitment to one signal principle: to protect the rights of every eligible voter to cast a ballot and to have that ballot accurately recorded and counted.

Since its formation, MDERC has garnered a national reputation for its effective advocacy on behalf of the diverse citizens of Miami-Dade County, as well as a pioneering force in the fight for transparent, verifiable and secure elections on equipment that meets the needs of all voters. Locally, MDERC is recognized by both local government officials and community leaders as the authoritative citizen voice on the issue of voting system reform. Never forgetting its commitment to transparency and verifiability, as well as accessibility for all, MDERC has successfully brought together the voices of civil rights, voting rights, disability rights and voting integrity to Miami-Dade County, forging a powerful chorus for meaningful voting system reform.

The Coalition's pioneering work began immediately upon its creation. Within weeks of its September 2002 founding, MDERC convinced the elected leaders of Miami-Dade County to agree to bring international observers to monitor the November 2002 election. This was the first time in United States history that international observers were invited to observe a United States election. In addition, MDERC convinced the County to provide sample ballots for voters in English, Spanish and Haitian Creole, Miami-Dade's three voting languages. MDERC later succeeded in getting the County to agree to retain an independent computer expert, Professor Douglas Jones, Associate Professor in the

Department of Computer Science at the University of Iowa⁴, to test and report on the state of Miami-Dade County's use of Electronic Systems and Software, Inc. ("ES&S") *iVotronic* voting machines.

MDERC's long list of successors since its formation in September 2002 convinced the group that the model for effective advocacy must necessarily place at the center community involvement, civic participation and empowerment of every day citizens. How to achieve this has become one of the central missions of MDERC and the reason behind the 2006 Project.

B. Defining the 2006 Project.

In an effort to create a project that included citizen and community participation from start to finish, MDERC first sought input from its partners and members as to the parameters of the 2006 Project. The following were among the questions the Coalition members and partners asked themselves:

1. "What should we study?"
2. "What should the goals of the project be?"
3. "How should the goals be achieved?"
4. "What administrative structure should we put in place to achieve the enumerated goals?"
5. "How does the Coalition build on its past successes?"

The feedback from core members and volunteers varied widely. Some members of MDERC wanted to build on the academic and research successes of the 2004 project, while other members were looking to develop a replicable and accessible methodology for civic participation and civic engagement, while focusing less on the analysis of the data compiled.

Contentious at times, this discussion as to the direction, focus and structure of the project led to the voluntary resignation of the member who had originally agreed to head up the project. This very first personnel crisis ever in the then four year history of the all-volunteer organization forced the remaining members of the Coalition to come together to fill the void and implement a consensus vision. The organization's historic strengths—its commitment to the importance of civic participation and to consensus building, and its dogged determination to empower and elevate the diverse voices of its members—resulted in the members being able to quickly regroup, select a new project leader, and moving forward with the project.

⁴ One year after his work with Miami-Dade County and MDERC, in August 2005, Professor Douglas Jones was awarded an \$800,000 grant from the National Science Foundation (NSF) to investigate the use of electronic voting systems in U.S. elections.

The following is the defined purpose of the 2006 Project, as settled upon by the members of MDERC in meetings held both before and after the November 2006 mid-term elections:

“The purpose of the 2006 Project is to develop replicable methodologies for observation, study and analysis of voting systems by empowering members of the public to monitor poll closings and by providing them with a structure for meaningful observation so that their reporting can (a) in and of itself serve as a tool for civic participation, (b) serve as the jumping off point for further study and analysis and (c) illustrate the lack of transparency of current voting systems.”

Set forth below is the replicable methodology for observation that the Coalition has developed as a result of its 2006 Project, to be used by large and small organizations and concerned citizens.

THE REPLICABLE MODEL

I. PHASE ONE – GETTING STARTED.

A. Understanding what it means to “observe”.

The purpose of the 2006 Project was to create a replicable model of “observation”. Thus, the first step in the creation of our model was to agree upon what MDERC meant by the term “observation”. For various reasons, including the fact that the mission of the Coalition is to bring about lasting improvements in the way voting is conducted in the United States, as well as the fact that we are non-partisan and we do not invest ourselves in the outcome of particular elections, we decided, as a group, that the “observation” model to be used would be one that is strictly in keeping with the definition of “observation” as the act of noticing or perceiving, or as an instance of viewing or noting a fact or occurrence of some scientific or other special purpose.

The decision to define our “observation” in these very narrow, very passive terms is, we believe, central to the model we have created. That model, as you will find in this report, is one where the observation itself is not intended to be used as a method to bring about change but rather, the model is one where conclusions are drawn and solutions to problems proposed, only after all of the data gathered during the observation has been examined. To use a concrete example of what we mean by this: If, on election night, one of the observers sees that something is going terribly wrong with how the tabulation of a particular group of votes is being conducted, under this model, it is not the job of the observer to try and correct the errors. The sole task of the observer is to accurately and correctly record what he is observing so that the recorded data of the observation can later be examined and recommendations can be proposed.

While some of you might at first assume that this model of observation is either too passive to be effective, please note the success of the Coalition's 2004 Get It Right report (which, as stated above, was even cited in September 2005 GAO Report), especially the Coalition's documentation and study of the "electronic ballot stuffing" glitch in Precinct 816 (which is fully detailed in the Get It Right report). Moreover, note that the nature of election night observation is such that the importance of the observation grows when patterns are able to be discerned and studied and where additional documentation is able to be gathered. In fact, MDERC has found that some of the most compelling data, which has the greatest chance of forcing elections officials to improve their policies and practices, is data which shows clear patterns of bad practices, including the statistic, uncovered by the Coalition's observation of the closing of the polls during the 2004 presidential contest, showing that in over three quarters of the precincts in Miami-Dade County, the number of people who voted in that election did not match the number of votes cast. Again, the Coalition's findings in this respect are documented in the Get It Right report.

B. First Step: Information gathering.

1. You⁵ must familiarize yourself with your state's observation and public access laws.

Poll closing observation is all about access to the polls – "public access", to be exact. "Public access" to the polls is different from the access given to government employees working elections; or the access given to federal observers under federal voting laws; or the access given to political interests (those representing parties, candidates or issues on the ballot). "Public access" does not depend on a person's affiliation with any of the above. To the contrary. "Public access" is the right of common, every-day citizens to view the actions of their government which, in the case of vote tabulation during an election, means the right to be present at all sites where votes are tabulated, during the times when those votes are being tabulated. Thus, this explains why there is generally no right of the "public" to be present inside the polls during the times when voting is actually taking place. That right arises when the polls are closed to voting and the tabulation of the votes begins. Please note, however, that the public's right of access to the tabulation process is not unlimited. As is generally the case with the public's right of access in other areas, government is permitted to set parameters, limitations and restrictions.

Those parameters, limitations and restrictions vary from state to state. Thus, the first order of business for you is to familiarize yourself with your state's statutes and/or local laws and regulations which address the issue of public access to polling places after the polls have closed. Florida's law, for example, is fairly liberal in permitting broad access. Section 101.5614 Fla. Stat. provides that the post-poll closing proceedings "shall be open

⁵ Because this is intended to be both a report on the 2006 Project, as well as a user guide for interested groups, the Coalition has intentionally made use of the terms "you" and "your."

to the public” and “shall be conducted in the presence of the public desiring to witness [them].” Moreover, §104.29 Fla. Stat. provides that election officials shall “allow as many as three persons near them to see whether the ballots are being correctly read and called and the votes correctly tallied,” and makes it a first degree misdemeanor to deny or interfere with this “privilege.”⁶

As you familiarize yourself with the laws applicable to the public’s right to access tabulation, be very mindful that you will need to explain those laws to your observers. And, for all practical purposes, you will also have to explain the limitations that exist under those laws. If you are uncomfortable with the task of understanding and explaining what are essentially legal concepts, seek the assistance of local or national civic groups, local bar associations (these are associations of lawyers in your community), or lawyers with whom you have a relationship. Groups such as the League of Women Voters and Verified Voting Foundation, we have found, are more than happy to provide assistance.

Once you have a grasp of the public access laws applicable to your observation, the difficult task of deciding whether to inform your elections officials of your research begins. What do we mean by this? Over the several years of MDERC’s observations, we have concluded that a fertile area for study is the extent to which elections officials and pollworkers know and understand public access laws. Thus, in crafting your observation, your group might decide to study the extent to which elections officials and pollworkers are aware of and respect the public’s right of access. In this case, you might choose not to inform them ahead of time of your impending observation. You might decide to simply show up at poll closing and see what happens, recording your experiences in the way you would record vote tabulation data (with the purpose that this data relating to access would be evaluated later, and would serve as a basis for your group to propose recommended steps in the areas of pollworker training and education).

Ensuring that pollworkers are as familiar as you are with the applicable law may present a challenge. For the 2006 Project, MDERC wrote to the Miami-Dade Supervisor of Elections requesting written confirmation of our understanding of the law and that our volunteer observers would be allowed access to polling places. We encourage you to explore the option of reaching out to and meeting with your elections officials, which does not mean that you should or must meet with them. In fact, we did not do so in the early years of our observations. However, the thought process involved in weighing and considering your options will provide you with a great deal of insight on your community’s relationship with its elections officials. The Supervisor’s written response was duplicated and provided to all of our volunteer observers, along with copies of the statutes cited above, so that they would be prepared in the event of a challenge to their right of access by uninformed pollworkers. (See Exhibit C).

Unfortunately, our observation surveys revealed that pollworkers were frequently uninformed about the public’s right of access laws. In fact, the Supervisor’s letter in

⁶ See Exhibit B for a description of Florida’s laws and regulations regarding electors and elections.

some instances became something of a double-edged sword. In those cases, the pollworkers regarded the Supervisor's letter as the required document of entry to their polling place, and attempted to keep observers out if they failed to produce it. This is a problem that we hope will be eliminated with improved pollworker training now that it has been identified.

If you experience similar resistance on the part of pollworkers, do not be discouraged. A key component of your observation is the identification of any barriers to that observation, including failures on the part of pollworkers to follow public access laws.

2. Familiarize yourself with polling place procedures.

Knowledge is power. There is no substitute for knowing in advance what the poll closing procedures should consist of and sharing this knowledge with your volunteer observers in your trainings. Obviously, by knowing what pollworkers are expected to do, observers will be better equipped to perform their own observation and recording tasks, and will be better able to identify pollworkers' compliance or noncompliance with the law. There are numerous ways in which to obtain this knowledge:

- a. One of the first and simplest things you can do is to pay close attention while you vote in an election at your assigned polling place. Note the procedures that are being employed in checking you in, verifying your registration, downloading your ballot, et cetera, and do not be afraid to ask questions.
- b. You should request – pursuant to the guidelines in the federal Freedom of Information Act (FOIA), or pursuant to your state's or municipality's public access laws, copies of all state and local election department manuals, particularly pollworker training manuals, which stipulate the procedures to be applied at the polling place, including poll closing procedures. Be aware that these can change from election to election so that if you are organizing an observation for a particular election, make the request for the materials that will be used in that election.
- c. If you have the time, sign up for and attend pollworker trainings conducted by your elections department.
- d. Actually serving as a pollworker, if at all possible, is the ultimate insider's guide to polling place procedure. However, if this is not feasible, talk to other people who may have done so, such as your friends or neighbors. A word of caution here. The Coalition strongly believes that those who choose to serve as pollworkers should not be called upon to serve as observers at the same time that they are carrying out their pollworker duties because conflicts of interest may arise that cannot be reconciled. Simply put, you cannot serve two masters.
- e. If you have specific questions, you can call up your elections department or Secretary of State and ask to speak to the specific department supervisors who

can address them. Often, the pollworker training supervisor is the best (maybe even the only) person with answers to questions about procedural matters at the polling place.

f. You can and should do a “trial run” in advance of conducting your project by attending as many poll closings as you can to observe first-hand how they are conducted and by asking as many questions of pollworkers as they are able and willing to answer.

Remember: As a citizen and a taxpayer, you have every right to investigate, participate in and inquire about the poll closing process. Do not be intimidated or shy. And, when you come across some particularly knowledgeable and helpful individual who takes his or her responsibility as a public servant seriously, be sure to keep his or her e-mail address or direct line phone number in a safe place!

C. Create a structure for developing forms and documents for use in the project.

It is best to create all of your documents at one time at the inception of your project and to have them available for dissemination in electronic and hard copy form. There are two categories of forms that you will need to develop. The first of these are forms that you will need for dissemination to volunteers, including:

- a. A project flyer. (*See* Composite Exhibit C). This flyer should include the name of your organization and any sponsoring organizations, the purpose of the project (preferably with a catchy and immediate message, for example “Democracy Needs Action!”); a brief description of the what volunteers are expected to do and how much time it will take to do it (including training); meticulous contact information, including all forms of contact (the name, street address, e-mail address, fax number and phone numbers of the project coordinator; the name, street address, e-mail address, phone numbers and website of the organization conducting the project).
- b. A training schedule with dates and sites should be disseminated in addition to the flyer. (*See* Composite Exhibit C). This information needs to be presented in a thoughtful, effective way so that it will attract and not overwhelm potential volunteers. Our flyer had a brief, attention-getting overview on its face, with more detailed information on the back.
- c. Volunteer registration form. (*See* Exhibit D). This form should be designed to elicit the volunteer’s name and all contact information, i.e., address, phone, cell phone, alternative phone, and e-mail address. The registration form should provide the volunteer with options as to when and where they are willing to work, with the caveat that the project’s success depends on the most complete and diverse coverage of polls in the selected region. Your form should be specific as to all options. Since our study covered Early Voting, we reproduced on the

back of our form our election department's Early Voting site list and schedule. Finally, if you are going to have your volunteers work in pairs (something we strongly encourage), we recommend that the volunteer registration form provide a space for the volunteer to indicate whether he or she needs or already has a partner, and in the case of the latter, a space to name that person and their contact information.

- d. A training schedule flyer. (See Exhibit E). Even if this information can be established early and is included in the project flyer, it is helpful to have a separate flyer listing the training dates, times, and training sites, with directions.
- e. Various outreach materials in the form of standardized letters and e-mail templates should be created to acknowledge and thank volunteers for their registration forms, to forward project information to various civic organizations and/or to publish in community newsletters, etc. We found it quite useful to develop these templates in advance

The second category of documents that you will need to develop is volunteer training materials. These include the instruction documents that you will use to train your volunteers and the forms that will be used to record their poll closing observations and surveys. The creation and content of these forms are addressed below in the Section titled PHASE TWO.

D. Outreach and recruitment.

1. Deciding who you want to reach out to.

Admittedly, one of the most difficult tasks you will encounter will be deciding what groups to reach out to. In order to help you navigate this complex terrain, we have the following suggestions:

- a. Reach out to non-partisan groups. The reason is simple. The purpose of your observation is to shed light on the process of counting and accounting for the votes. You are not there to alter the course of elections or to assist candidates or initiatives. Therefore, non-partisan groups, by their very nature, are more likely to understand and be accepting of your missions. Also, your work is far more credible once you remove partisan politics out of your observation. Lastly, by removing divisive politics from your efforts, you open the door for true civic participation, civic engagement and community discourse. From a practical perspective, this means that you must strictly adhere to rules of non-partisanship. Do not tolerate the injection of partisan politics in meetings or group conversations. Make sure that your recruitment and training materials are free of partisan references (this includes political jokes and clever comments that are partisan in nature). Do not permit observers to wear any T-shirts or buttons with political messages. Do not permit observers to wear two hats (their partisan hat and their observer hat), at the same time.

b. If you must reach out to partisan interests, do so in a completely non-partisan manner. Reach out to all local political party representatives and emphasize to them that for this project, their members must leave their politics at home. Invite all partisan organizations to be part of the process. Treat everyone exactly the same. Do not do something for one group without offering it to all other partisan groups.

c. Reach out to a broad cross section of your community. This means that you must work across racial, ethnic, language and economic lines. It also means that you must reach out to the young, the elderly, voters with disabilities, people in rural, as well as urban parts of your community, professionals, laborers, members of business groups, unions civic groups, civil rights/liberties groups, and clubs. It sounds self-evident but civic engagement is about community engagement and there can be no community engagement unless all segments of the community are invited to the table. If your budget allows, translate your materials. No matter what you do, however, distribute the materials widely.

d. Do not assume that because a particular group does not do work in the area of voting rights, that they will not be interested in your observation. The beauty of this project is that in our democracy, voting is a universally understood concept – meaning that while only some people actually vote regularly, everyone aspires to vote; most of those who do not vote think they should; and most of those who cannot vote wish they could. So, do not neglect the local garden club!

e. How to engage students? We have found that college students are ideal for this project. By their nature, they are inquisitive, full of energy and motivated. So, reach out to them. The best way is by reaching out to college professors and explaining your work. Some local college professors have actually incorporated our research into their teaching, giving students extra credit for participating! As for high school students, we have reached out to them in a more limited scope. Part of the reason is that we want to insure proper supervision. Because observation necessarily requires an interaction with government officials, and because our experience shows that some of the interactions have the potential of becoming conflictive (as you will see below, we encourage observers to avoid all forms of conflict with government officials), you need to gauge the maturity of your particular high school students. In fact, this is one area where pairing observers up with partners works exceedingly well.

f. Be careful with troublemakers. While overall, the people who are interested in becoming involved with poll closing observation are doing it out of a deep commitment to the process, every once in a while, you will encounter people who may have a personal agenda inconsistent with that of your project. When you do, there is no immediate need to push them away often, your training and materials will be enough to give them a new perspective! Simply, pair them up with your seasoned veterans or more reliable personalities and give them a show.

Be honest and firm, but give everyone who wishes to volunteer at least one opportunity to shine.

g. Remember that observers are, for all practical purposes, representatives of your project. Therefore, if you would not feel comfortable permitting someone to represent your project, this should give you a good indication of whether you want them as observers for your project.

2. *The nuts and bolts of outreach.*

Now that you have decided who to reach out to, the task of actually reaching out is much less complicated. Here are a few basic pointers:

a. Prior to starting your outreach, set up a meeting with your core group of volunteers (these are the 2, 3, 5 or 20 other people whom you have managed to convince to join you in this adventure). Prior to the meeting, tell the core group that you want them to do a little homework. You want them to come prepared with a list of names of persons or organizations whom they think might be interested in this project.

b. At the meeting, start a chart of everyone's suggested points of contact. Include columns for contact information as well as columns for dates of contact and outreach results. This will allow you to track your progress and keep you focused. We have attached a copy of our outreach chart for your reference. *See* Composite Exhibit E.

c. Assess your list honestly. Is it truly representative of a cross section of your community? If the answer is "no", do not despair. As you begin the outreach, simply ask your targets whether there is anyone in "X" group or "X" segment of the community whom they suggest you call. Broad-based outreach is often really just about putting a little effort into it. So, be mindful of the issue and just keep trying.

d. Contact the media and ask them to do stories on your project or to allow you to record public service announcements. Contact your favorite local radio personalities and ask them to give you air time to discuss your observation. Lastly, offer to write op-eds or short articles. Make sure to target not just the main paper, but also other smaller community newspapers and do not forget about public access television. Often, public access channels have a rotating schedule where they allow community groups to sign up to record programs on topics of interest to the community. Voting and voting observation certainly fit the bill.

II. PHASE TWO – FORM CREATION AND TRAINING.

A. Form design is not as easy as it seems.

Trying to design appropriate forms for a poll closing observation project is a complicated process. It depends on multiple variables particularly the complexity of the voting procedures in a jurisdiction, the sophistication of the pool of observers and whether or not the jurisdiction authorizes some form of early voting. These are not easy issues to wrestle with and MDERC struggled with them in 2006, just as we did in 2004.

In particular, there is a tension between the sophistication of the volunteer base and the specificity and detail of the data you may wish to have collected. Second, understanding of election procedures can evolve during a poll closing project – thus altering the form and substance of your forms. Finally, if you are in a jurisdiction that permits early voting and you wish to observe this part of the voting process, be aware that early voting presents a challenge in grasping both the details of the vote gathering process and the accounting procedures that are used by the voting officials in your jurisdiction in order to try to protect the integrity of this part of the process. In short, in creating your forms, you will have to grapple with the very complicated question of how to involve a large cross section of the public while at the same time creating a model that will give you accurate and usable data for later examination and study. These two goals are seemingly at odds and reaching a middle ground will be a constant struggle.

The first crucial lesson we learned was to complete the development of your written materials by the end of September, for a November election. There are many reasons why MDERC did not adhere to this rule, but managing a poll closing project is much less stressful if you can stop thinking about forms in September. But again, the development of the forms will be the most difficult task because it will directly affect the degree to which your observations will be citizen based.

B. In form design, the place to start is the laws, regulations and county procedures governing poll closings.

In designing forms for the observation, it is necessary to focus on your jurisdiction's laws and policies relating to poll closings. In Florida, this meant consulting state law and regulations, as well as focusing closing on procedure manuals prepared at the state and county government levels. In its project, MDERC collected the state laws and regulations that govern the poll closing process,⁷ As well as the Florida Polling Place Procedures Manual.⁸ We suggest you do the same. Your local polling place procedures

⁷ Florida's laws and regulations are attached as Exhibit B to this report.

⁸ A copy of this manual is attached to this report as Exhibit F. County level procedures are more detailed. See <http://election.dos.state.fl.us/laws/proposedrules/pdf/dsde11rev.pdf> for a copy of the manual.

manual (each jurisdiction calls it something different), will prove invaluable to you in sorting out what actually happens at a poll closing in your area.

With knowledge of the procedures and the regulations governing these procedures, MDERC was able to assist VIA-Tampa Bay in replicating a process for poll closing observations in Pinellas County. Both groups focused on obtaining the training manuals and materials that each county issued for pollworkers. In addition, members attended the training sessions that the local supervisors of elections set up to train precinct clerks, inspectors, deputy clerks etc. Public records requests were made to obtain additional documentation prior to the election.⁹

C. Central to form design is the concept of “ballot accounting”.

In designing your forms as well as structuring your training, you and your group need to recognize that “ballot accounting” is the heart of a poll closing observation. What is “ballot accounting”? Simply put, it is the process of trying to reconcile and compare the number of people who signed in to vote with the number of votes cast. In structuring your forms and your training,

A well-designed form should lead the observer through the process of determining whether or not pollworkers followed proper ballot accounting procedures. In Miami-Dade and Pinellas counties, ballot accounting requires pollworkers to determine if the number of voters who signed in matched the number of votes cast on the DREs. On Election Day this requires pollworkers in the precinct to reconcile the signature counts in the precinct registers. Miami-Dade County added an additional step to this process on Election Day 2006. Individual voters now also sign a voter authorization slip that provides an additional paper count of the number of voters that signed into a precinct on Election Day. Thus pollworkers must determine if the count of signatures in the precinct register, the number of voter authorization slips, and the public count from the DREs match. During early voting, the number of certificates must also match the number of votes on the machines.

This reconciliation process is critical. In order to understand why this is so vital please carefully read the following sections in “*Get It Right*”¹⁰ which we have attached as Exhibit A to this report: **(1) Section III. A. 3 – Analysis of Reported Discrepancies from Certificate No. 2 Forms and (2) Section III.B - Vote Counting Problems in Precinct 816.**

One subsidiary issue is key: Did the pollworkers force a match between the signature counts and the public count in order to avoid the time-consuming task of resolving discrepancies? As discussed in Section III. A. 2 in “*Get It Right*”, this turned out to be a significant problem in the 2004 election in Miami-Dade County. Among the observations of 31 polling places that year, there were three precincts where pollworkers

⁹ A copy of a public records request is Exhibit G.

¹⁰ Ibid.

were found to have forced a match between the signature counts and the public count, where there was a discrepancy between the numbers. Instead of investigating the discrepancy, they filed an official form with the Supervisor's office that showed that the signature count matched the public count. This allowed these pollworkers to avoid the task of determining whether or not the public count or the signature count was off. These were called "*forced matches*" in "*Get It Right*". This report also explains why even small discrepancies in ballot accounting matter greatly. These discrepancies compromise the integrity of the vote tally when pollworkers fail to record this information honestly.

D. Sitting down to design the forms.

Once your group has studied the laws and procedures of your particular jurisdiction, the hard work of designing the observation forms and surveys begin. The first consideration here is the amount and the type of information to be collected. How do you figure this out? Keep in mind the following rule of thumb: The forms that observers fill out should elicit the accurate recording of specific data generated at poll closing. In order to assist you in the process of creating your forms, here is a list of the specific questions relating to data we know to be generated at poll closings in Miami-Dade County, Florida:

Early voting:

- a. Did the pollworkers reconcile the public count to the certificate count at the early voting site?
- b. Did the staff at the early voting site adjust the certificate count to match the public count? [a very hard observation to make].
- c. Were the observers uncertain about whether the machine counts and certificate counts were reconciled? Access is key to observing these reconciliation activities and when access is limited, observers should be careful about making a good faith determination.
- d. There was also a question included in the form to determine the time it takes to shut down an early voting site on the last day. During the November 2004 election, our observers noted severe problems in this regard. For the 2006 Project, observers were asked to note the time it took from the moment the election specialist or voting technician began closing the machines until the process was completed.

Election Day:

- e. On Election Day, the query shifts to whether the signatures on the precinct register were counted and reconciled with the machine count. Therefore, observers must be able to answer with certainty whether the pollworkers made an effort to reconcile both tallies. In Miami-Dade as of the election cycle of 2006, this requires looking at three separate tallies, as explained previously in this report.

- f. Often ballot accounting is abandoned prior to achieving a reconciliation. There should be a section on the form for the observer to note if this happened.
- g. Did pollworkers on Election Day force a match by entering the public count on the machines as the total for the register count?
- h. Were machines locked down or sealed prior to the completion of reconciliation? If this happens, it can prevent pollworkers from going back and trying to uncover the errors.
- i. Were observers uncertain about whether or not reconciliation had occurred?
- j. Had register signatures been counted before poll closing?
- k. Election Day observers were to note how long it took between the time an election specialist first inserted the master “PEB” into the first machine and the time the results tape was run.

Other types of questions should also be considered:

- l. Were observers allowed in before the last voter finished voting? Florida law prohibits non-partisan observers from entering the polling place until that time.
- m. Did the pollworkers understand closing procedures?
- n. Were the security forms properly filled out?
- o. Were machines properly sealed?
- p. How many machines were at the site?
- q. Were there any machines for voters with disabilities?
- r. Were any machines broken?

The form should also include space for the observer to note when the unexpected happens, which often is the case. Finally, it is good practice to encourage the poll closing observers to write up an independent narrative of what they witnessed during the process. For example, during early voting at the Coral Gables Public Library observers for the 2006 Project uncovered the fact that a voting machine had been taken out of service on two separate instances. A single machine holds the votes from multiple days’ worth of voting, making this was a very serious occurrence. One of the observers at the site that day felt it necessary to substitute an independent narrative that dealt with the broken machine, for the standardized form.

E. Our experience designing forms for the 2006 Project – the good, bad and ugly.

Miami-Dade County:

Once the form design phase began, MDERC's President suggested that we seek the counsel of a highly-trained union organizer about our forms. This organizer strongly suggested that we pare the forms back. This was done with some reluctance after much internal discussion about the need for volunteers sophisticated in voting procedures. Eventually, the organizers agreed that it was more crucial to the project that an adequate number of volunteers be available to cover precincts and EV sites, than it was to have more detailed information on our forms. This was a tough compromise to make; VIA-Tampa Bay felt that it lost some information that would have been useful for its data gathering. In contrast, MDERC believes its goals were achieved by paring back the forms.

The issues were slightly different for MDERC than for VIA-Tampa Bay. MDERC's goal was to refine its processes from lessons learned during its poll closing project during the 2004 elections. During the November 2004 effort, MDERC relied on a somewhat narrow band of observers. Although the project benefited from significant outside volunteer participation, the most thorough written observations came back on forms from volunteers who had attended our weekly meetings on a somewhat regular basis. For the 2006 Project, superior outreach efforts resulted in a significant increase in the number of volunteers. Though the increase in the number of volunteers for 2006 was impressive, our volunteer base turned out to be a bit less sophisticated.

In 2004 there were 66 separate observations at early voting sites. Most of the time two observers covered an EV site on the same day but sometimes only a single observer was present. For the 2006 Project, there were 144 separate observations of the twenty early voting sites in Miami-Dade County, with the norm being two observers covering the sites at all times. Recruitment efforts for 2006 paid even greater returns on Election Day. In 2004, MDERC observed thirty-one precincts on Election Day. In 2006, 91 precincts were observed.

A Coalition staffing transition had to be made in mid-September of the 2006 Project. This particular individual had designed the forms that MDERC utilized in its last large-scale poll closing project in November 2004, and his input would have been most useful for the 2006 Project. The existing form set for Miami-Dade County procedures had developed in stages during the primary and general election of 2004. It included three types of forms: (1) Early Voting Site Observation Forms; (2) Final Day of Early Voting Forms and (3) Election Day Forms. These forms had evolved as the general election poll closing project progressed in 2004, but they were still a work-in-progress at the end of the project. Unfortunately, several questions were not appropriately structured to elicit clear-cut answers from our volunteers. When drafting "Get It Right", MDERC had to discard these answers because the data was deemed inadequate.

A second factor complicated the form development process. MDERC partnered with VerifiedVoting.org in developing forms that could be used nationally. VerifiedVoting.org sought MDERC's involvement based on our prior experience in running the November 2004 poll closing project. The mechanics of this process did not work as smoothly as we would have hoped. Time pressures were intense on both sides. In addition, VerifiedVoting.org was relying heavily on the Coalition for input on their forms. In addition, an all volunteer organization does not march to the same drummer as a professional staff that was also stretched thin by its efforts to encourage a multitude of poll closing projects across the country. The VerifiedVoting.org partnership took time away from MDERC's efforts to refine its own forms. As a result, the Coalition went through too many iterations in designing its forms throughout the month of October. This was not a good practice.

Pinellas County and VIA-Tampa Bay:

One of the most successful parts of the 2006 Project was the collaboration and development of forms for our co-partner, VIA-Tampa Bay. Our first staff director visited the group in Pinellas County and helped them design their forms for their September primary and early voting. Drawing on prior experience, MDERC members explained the methods for accessing Pinellas County's election procedures and developing forms that would be applicable to their voting technology system supplied by Sequoia Voting Systems. Since Miami-Dade County utilizes a different type of Direct Recording Equipment, the collaboration with VIA-Tampa Bay broke new ground in two areas: (1) developing a methodology for various voting technology and (2) creating a replicable process for a different jurisdiction's procedures—Pinellas County. The head of VIA – Tampa Bay found MDERC's standardized documents to be satisfactory for running their project, with only a few minor tweaks that pared the forms down for election day. The Director of VIA-Tampa Bay made a valuable observation for future document development. She noted that their volunteers performed better when the form terminology closely tracked the procedural language that Pinellas County pollworkers utilized. This allowed the observers to check off the appropriate steps more easily.

We have attached the MDERC forms as Exhibit J to this Report and the VIA-Tampa Bay forms as Exhibit K to this report. You will see the range of information that we solicited. Exhibit L contains earlier draft forms that elected more information.

The VerifiedVoting.org Questionnaires:

As mentioned above, simultaneously with MDERC's project, VerifiedVoting Foundation.org also organized poll closing projects nationwide. They solicited our comments on their forms.¹¹ Though MDERC is not privy to the final forms this group has recommended that other local groups utilize their draft forms do show some questions or areas we would avoid.

In VerifiedVoting.org's Early Voting/Ballot Accounting and Poll Closing/Ballot Accounting Election Day forms, they ask observers to determine: (1) if election workers are dedicated exclusively to polling operations; (2) if all personnel involved in polling

¹¹ These forms are attached as L.

operations regular employees of the elections office; and (3) if the technical support persons were hired on a temporary basis or were they employees of the voting machine vendor. Verifying this information would be a major challenge for volunteers in Florida. Volunteers do not observe operations during the day nor are they to interfere with closing operations.

Attempting to gather this information highlights another difficulty. It is extremely difficult to determine what each pollworker's role is during the poll closing process. It would take experience in poll closing procedures—experience garnered during poll worker training—to figure this out quickly. Observers can easily determine who the Precinct Clerk is and who is the technical specialist in charge of harvesting the votes from the machines. Beyond this, it would be difficult for a novice to garner more detailed personnel information.

Secondly, observers in Florida are not to interfere with closing activities. Doing a personnel survey could easily be construed as hindering the closing procedures. In sum, completing the forms is difficult enough without identifying the assigned roles of all the pollworkers. Our advice would be not to go there.

The VerifiedVoting.org form also asks an observer to identify the equipment being used at the polling site by brand and model number. A novice observer should not be expected to collect that information when it can easily be gathered by the community group or by contacting the supervisor of elections.

The final VerifiedVoting.org forms may have violated one key drafting principle. The last page of their form lists a variety of steps under “Procedures Observed”. In reviewing this form we pointed out that item 8 had to be moved to the end. This query suggested that it would be normal for an election worker to call in the individual machine count totals prior to reconciliation. The procedural queries on the form should outline the correct steps that should be taken to close the site. This query should be moved to the end so that an observer knows that the form is guiding her through the process correctly.

Admittedly, drafting a nationwide form posed a significant challenge for VerifiedVoting. But the forms assumed a level of knowledge about DREs and closing procedures that would be daunting for many MDERC volunteers who had observed multiple poll closings. Their drive for detail could be a bridge too far for many volunteers.

Finally, the VerifiedVoting.org forms are designed for a single observer per precinct. As mentioned earlier, MDERC and VIA-Tampa Bay both adopted a dual observer format. We recommend this approach strongly. Two is best – at least in Florida.

F. Once the forms are ready, it is time to structure the training.

1. The key to training observers is knowing what to expect during the actual observations.

In order to entice volunteers to sign up to observe poll closings, we encourage you to promise the following: A discreet project that will be of educational, entertaining and very useful, for which they will be asked to commit no more than a handful of hours between training and observing. We encourage you to make this promise to your volunteers for three reasons. First, we have found that all of the above is actually true. Second, we have found that prospects are more receptive to volunteering when the promise made looks something like this. Lastly, we have found that once you make this promise, you will be forced to deliver. In the context of training, delivering on your promise means doing your homework. This means that you must know what to expect during the actual observation and you must be able to convey that to your observers in a clear and concise manner during the training. Thus, a good rule to follow is that if someone has never observed a poll closing, they have no business training your observers. What this means, for all practical purposes, is that putting together a poll closing observation requires you and your group to plan ahead so that if you know you want to observe a particular election, you use the elections prior to or leading up to that election, to do your homework so that when the time comes to train observers, you can convey an accurate sense of what they can expect during their observation.

2. Using the “dry run” election as part of structuring your training.

Now that you and your group have a clear grasp of your local jurisdiction’s process and procedures and you have a draft set of forms you think might work well, it is time to do the “dry run.” Remember, the whole purpose of the “dry run” is for you and your group to familiarize yourselves with the poll closing process. This is a good time to test your forms. Are they too long? Are they unclear? Are they easy to use? This is also the time to pay careful attention to everything that happens once the polls close and the last voter has voted. After the “dry run” is complete, try to see whether the data collected is useful and understandable. Is there anything that you can do to improve the quality of information gathering as a result of having observed an actual election? How do you convey what happens at the polls to your observers during training? No, we do not recommend that you try to take pictures or to videotape the proceedings. However, you do have to figure out a way of conveying the process to your observers. Here again, examples are best. So, take copious notes!

In order to give you a sense of what you can expect during your “dry run”, here is what happens in Florida on election night and during early voting.

Election Day:

In Florida, poll closing begins after the last voter has cast a ballot. The polls officially close at 7 p.m., but everyone in line at that time must be allowed to vote. When the last voter finishes, the public can enter to observe the poll closing. The casting of the last

voter's ballot also triggers the start of closing procedures for the election board, including securing equipment and materials against further voting.

Pollworkers then count the number of signatures in the precinct registers, and the clerk enters the total on a form called Certificate No. 2. The number of voters is the benchmark to measure the number of ballots that should be tallied. It will be compared to the number of ballots counted on the machines to be sure that both totals are the same. The vote totals from each machine are used to produce a results tape. The clerk and elections specialist close the terminals and gather vote totals by putting a "master PEB" device into each machine. In Miami-Dade County, a printer connected to the last voting machine produces the results tape.

Each voting machine screen shows a "public count" of the number of ballots cast on that machine; the counter is set to zero at the beginning of each election and goes up by one with every ballot recorded. The results tape first shows both the public count for each machine and a total of the public counts on all the machines. Then the tape reports the total votes for each candidate and question.

Discrepancies between the number of voters and the number of ballots counted should be investigated immediately. The signatures may have been counted incorrectly. Inaccuracies in voter signature counts should be corrected immediately. If the total number of voters is not correct, there will be no way to tell how many ballots should be there. Problems in electronic vote recording and counting have been revealed through this process of investigating discrepancies between the number of voters and the number of ballots. If the Election Board cannot reconcile the number of voters with the number of votes, they should report the discrepancy to the Canvassing Board. Equipment cannot be shut down or put away until the pollworkers have run the results tapes, counted the number of voters, and accounted for all ballots cast.

The public should be able to witness all poll closing proceedings. They should be able to see that all machines are downloaded, record the machines' numbers, observe that the number of signatures has been compared with the number of ballots cast, and that the results and the equipment are sealed and handled securely. The public should also be able to verify that the results are posted at the precinct.

Early Voting:

During early voting [EV], voters fill out certificates affirming that they are registered to vote. These paper certificates are the equivalent of signing a precinct register on Election Day. Results are not tabulated during early voting, but the public count of ballots showing on the machines should be verified by comparison to the number of voters. Ballot accounting must be completed at the end of each day of early voting.

During early voting members of the public should be able to witness the counting of voter certificates and the public count from the voting machines showing how many ballots had been recorded to date, the resolution of any discrepancies, and the accurate reporting of these totals to the Elections Department. The public should also be able to

see that the equipment is handled securely. The last day of early voting is particularly crucial because this is the day that a master “PEB” is inserted into each machine to capture all the votes that were cast during the two-week period of early voting. This is the most crucial day of a poll closing project for a jurisdiction that uses Direct Recording Electronic touchscreen machines, or DREs, in early voting. It is also the most complicated event in a poll closing project.

3. Determine where the lines are drawn on the access issue before you begin your trainings.

MDERC and VIA-Tampa Bay contacted their county Supervisors of Elections about access for observers during early voting and on Election Day. As detailed in *Get It Right*¹² effective public access was a problem at many locations throughout the Miami-Dade County during the November 2004 election. Thus, for the 2006 Project, the Coalition sent a letter to the Supervisor of Elections of Miami-Dade County, seeking a clarification of the “rules” to be applied to observers seeking to exercise their right to observe under the laws of Florida.¹³ In response to that letter, the Supervisor of Elections wrote to the President of MDERC saying that the group would be allowed full access as authorized by law.¹⁴ Similar steps were taken in Pinellas County by VIA-Tampa Bay.

The access letter that the Supervisor wrote to MDERC was critical because it provided an expressed authorization for observers to view and record the serial numbers of the *iVotronics*, voting machines to determine the number of authorization slips, signature counts, voter certificates, public counts on the voting machines, and the total count on any forms used during a closing process. While MDERC has not finished its assessment of the 2006 data, our access was greater in 2006 than in 2004 when volunteers often ran into significant problems, particularly during early voting. The reverse was true in 2006; observer access was better during early voting than on Election Day.

For example, during early voting for the 2004 general election at the Kendall Public Library site observers were always sequestered in a corner of the voting room and were completely unable to record machine numbers and public counts on each machine. Such systematic limitations were not imposed during early voting in the 2006 elections. In 2006, the Supervisor of Elections informed MDERC that it would be able to record machine numbers and public counts and ascertain the number of voter certificates that were executed each day. At the Coral Gables Public Library, as one example, observers were able to ascertain the certificate count for each day and were granted excellent access to monitor the public counts on each machine. This made the ballot reconciliation process transparent in accordance with Florida law. This is not to say that access was always readily available. During the September 2006 primary, pollworkers at the largest

¹² This report is Exhibit A.

¹³ A copy of the MDERC letter to the Supervisor of Elections is Exhibit H.

¹⁴ A copy of the Supervisor of Elections letter is attached as Exhibit I.

precinct in Miami-Dade County sequestered two MDERC observers in a corner where they could not record machine numbers and the public count.

We provide you with this background because in training your observers, you will need to be as clear and as graphic as possible about the access that your observers can expect. Also, you will need to be clear with your observers about how much they should demand and how far they should push to receive the access guaranteed to them by your state and local laws. Lastly, your group needs to make internal decisions about how much uncertainty it is willing to tolerate when it comes to the issue of access. Therefore, we encourage you and your group to ask yourselves the following questions regarding access:

- a. Do you want to study the quality of the access provided to observers, as part of your project? If so, you may wish to forgo reaching out to your elections official and, instead, opt for just having your observers show up to the polls and record information about how they are treated and how much access they are provided. If you do this, train your observers that if they are denied access, this does not mean that they failed as observers. To the contrary, the information provided regarding the denial of access is valuable data that will be studied.
- b. How far should your observers go in trying to secure access to the polls? It is the Coalition's practice to clearly discourage observers from escalating a confrontation about the denial of access to the point where the safety of persons is threatened or the risk of arrest is present. We encourage you to do the same. Explain to your observers that the denial of access is, in and of itself, a valuable piece of information and that it is important that they not engage in confrontations about access beyond making a clear request, repeating that request, demanding that a supervisor address the denial of access, and, if none of these work, simply walking away.
- c. How do you best train your observers to understand their access rights? One recommendation is that you provide them with physical copies of the text of the relevant access laws. However, this might not be enough, depending on how clearly the laws are written and how they have been interpreted by the courts (if at all). Therefore, also be prepared to provide your observers with written summaries of the access laws. Also, do not underestimate the value of concrete examples. For example, in Miami-Dade, we give our observers the example of pollworkers who allow observers to enter the polls but then proceed to whisper so that the information exchange cannot be heard or recorded by the observers. Obviously, this is a denial of access. Giving of concrete examples trains observers to be sensitive to the subtle ways in which access can be denied even when entry into the polls is permitted.
- d.
- e. What is the difference between access and active participation? This is a very important question that needs to be addressed before a single observer is trained. When can an observer ask questions? When can he or she interrupt the

process? When can she speak up if she sees that something is being done incorrectly? While the line between observation and active participation is not always clear, train your observers to avoid the clear “no, no’s.” The Coalition has a bright line rule about not touching any voting equipment or ballots – even when invited to do so! Train your observers to keep their hands behind their backs when approaching voting equipment or ballots. Train them to ask where they are permitted to stand, sit or venture. Be very clear that the right of observation is not unlimited, that they cannot obstruct or interfere with the process.

G. The actual training.

1. The basics.

When asked for her thoughts on basic wisdoms to impart on groups wishing to undertake observation projects, the Coalition’s 2006 Project coordinator had this to say:

“Volunteers are very special people and should be treated with respect and appreciation for the time and effort they are giving you. If your training session is in the early evening and people will be coming directly from work, it is particularly important to offer light refreshments, as this will undoubtedly be appreciated and might even make your audience more attentive.”

What follows is the advise from our main trainer:

- a. Make sure you hold as many trainings as humanly possible in as many diverse locations as humanly possible. Also, as stated above, you promised brevity and you need to deliver. It is possible to train your observers in less than two hours for a live training and in one hour on a telephonic training. However, in order to achieve this, you will need to be organized.
- b. How do you get organized? You need to do two things: First, you will need to create a training packet for your observers. The training packet needs to contain an outline of the training course in a short, concise and clear format. The packet also needs to contain emergency contact information so that if your observers get stuck or have a question, they know that they can call you and get answers. Lastly, your packet needs to contain the materials your observers will need to gain access to the polling place (copies of applicable laws, letters, etc.), as well as a copy of the observation form they are expected to use to record their observations. A copy of the Coalition’s 2006 training packet is attached as Exhibit I. (Note that to avoid redundancies, we did not include the observation forms in Exhibit I as they are included in Exhibit J). Second, you will need to script your training and test it out on some of your core volunteers. They will be able to give the trainer feedback on what is unclear and will provide ideas on how to explain things better. An organized, on point training is critical to getting your

volunteers excited about your project and their role. Put them to sleep at the training and you are likely to end up with no shows at the polls on election day!

c. Leave plenty of time for questions but do not get bogged down. A good trainer knows the difference between a training that permits interaction and a free for all that results in little getting accomplished. We have found that, volunteers want to use the training session to vent about botched elections. While the sentiment is understandable, you cannot permit discussion of botched elections to dominate your training. Our suggestion? Nip irrelevant election talk in the bud. Let your volunteers know that their views are understood but firmly and politely remove those discussions from the training. Phrases such as the following work well “I understand what you are saying and the training you will receive today will assist you in doing something about future elections.”

d. Be very clear about the fact that your observation is strictly non-partisan. You do this in two ways. First, do not permit partisan talk at the training. Politely but firmly explain to your volunteers that you need them to leave their politics at the door. If you are firm and consistent, you will see that your volunteers will quickly pick up on the message and they will focus their questions on the nuts and bolts of the observation, rather than on politics. Second, explain that their behavior and words during the observation must also be non-partisan. Observers are not to wear political t-shirts, buttons or hats to the observation. This means that for those observers who spent the day campaigning for a candidate, party or issue, they need to change out of their partisan clothes – literally. Also, remind volunteers that to the extent that they speak with others at the polls during their observations, they are not to utter a single partisan word. This seems basic but we were surprised to find that in several instances, our volunteers made partisan comments during their observations.

2. *First explain the theory behind the observation.*

Do not assume that just because your volunteers signed up to be observers, that this necessarily means that they understand what they will be observing. While many of your volunteers might have a general understanding of what they signed up for, many others will not, and even those who do might be off the mar. Therefore, the first thing that happens in training is that you deconstruct the process for your volunteers in the most basic terms possible. To this end, the Coalition created a handy guide titled “Poll Closing Observation Project: The Why’s, How’s and What’s,” which can be found at Exhibit I. Please feel free to use our guide in your project, modifying and tweaking as needed. Also, make sure you give the guide that you create to your volunteers at the start of their training.

Note that the guide we created is broken up into a series of questions. The section on “Why do we need your help?” is intended to be the section that explains the basics of what happens at the polls after the doors are closed to voters, focusing on the general theme of the process which is the comparison between the number of people who sign up

to vote and the number of votes cast. As you will recall from the section above, the technical term for this is “ballot accounting”. However, we avoided using that term in the training materials, opting instead for a graphic and concise description.

The second question in the guide is “How does an observer go about observing?” Again, this is a basic primer on the nuts and bolts of getting the observer physically in a position to observe. Seemingly obvious points such as “be there a few minutes before the polls are closed to voting,” might seem obvious to you but they must be clearly stated and stressed.

The sections on “What is the observer looking for?” and “How do we record our observations?” are where you will spend most of your time. They are discussed immediately below.

3. The forms are at the center of your training.

The forms that observers are to use for their observation must play a central role in your training. This means that by the time your volunteers walk out of the training, you must have gone over with them, each and every single question, area, and category in those forms. In short, you need to train your volunteers so that when they walk out of the training, they feel as if they not only understand the forms, but are fully conversant in each question, area and category in the forms.

We have found that the best way to make volunteers comfortable with what they will be required to record on the forms, is to first explain what they will be recording and how. These areas are covered in the guide under the questions “What is the observer looking for?” and “How do we record our observations?” To explain what the observers will be recording at poll closing, do not simply talk about the poll closing itself. Begin by reminding your volunteers of what happens when a voter goes to the polls to cast her ballot. Because chances are that most of your volunteers will themselves have voted at least once in their lives, you will be connecting the observation process (which is new and foreign), to something that is familiar to your volunteers. By doing this, you will be assisting your volunteers in visualizing that which is foreign to them (the observation), and thus grasping both the process and the purpose of the poll closing process itself. We have found that once volunteers understand the purpose of the poll closing process, they will understand your project and their role as observers.

Once the volunteers understand the process, it is time to reinforce that understanding with the forms. Here, it is crucial to go over the specific questions in the forms, giving examples and anecdotes where appropriate. During this part of the training, we recommend that you quiz your volunteers to gauge their level of understanding. Avoid long hypotheticals. Focus on easy questions that test basic understanding of the forms. The importance of having your volunteers be clear on the meaning of each question, again underscores our analysis above about the difficulty in creating really good forms that strike the right balance between creating a broad based project that touches on civic engagement and gathering useful, accurate data that can be examined and studied.

Spend some time explaining the process of two person observation. This can best be accomplished by assisting observers in visualizing the poll closing tasks that will be going on around them. Then, ask your volunteers to work out with their partners who wants to observe what task. Once you break the observation up into tasks, you will be able to assist volunteers in understanding what questions relate to what task.

4. *Teach your volunteers to expect the unexpected.*

One of the most important points to make to your observers is that in the training, you, as the trainer, could never anticipate everything that will occur in the polling place. Explain to the volunteers that this is a fact of life and that they should not feel uncomfortable that something is happening in the polling place that was not covered in class. Explain that if something unexpected happens, they are to trust their instincts. Do their instincts tell them that what is happening is good, bad or irrelevant? Whatever it is, they are to write down what they observe – even if it does not make sense to them at the time. The raw data is valuable to your project and you want observers recording that data contemporaneously because it is likely to be more reliable than if the observer thinks about the issue for two or three days and then puts her recollection down on paper.

5. *Reinforce the role of the observer.*

Training is the crucial time to remind your volunteers that for this observation, they need to stick to their roles as “observers” and they are not to become active participants in what happens during the poll closing process. No information is too basic here. Explain that they are not to touch any voting materials, even if invited to do so. They are to keep their hands behind their backs when approaching any voting materials. They are not to disrupt the process. To the extent that they ask questions, if the pollworkers are unreceptive to providing answers, the observers must not create a confrontation or escalate a confrontation with pollworkers. If they are denied access (see section on access above), the observers are to firmly request that their right to observe be respected. However, they are to avoid any confrontation which may result in the police being called.

You must reinforce during the training that the role of the observer is not to change what might appear as a bad outcome at the poll closing, but simply to record everything that goes on in the polling place.

III. PHASE THREE – THE OBSERVATION.

A. Preparing for Election Day.

On November 7, 2006, MDERC volunteers observed 95 polling places that housed at least 124 precincts. At those precincts, there were a total of 207,584 registered voters, for a total of 19.1 percent of all registered voters in Miami-Dade County. This was a vast expansion in the number of polling places and registered voters compared to our previous

efforts. Out of 67 Florida counties, only 14 had more registered voters than the precincts observed by the Coalition. For example, Collier County had fewer, with 186,236 registered voters in 94 precincts. At most polling places, we were the only observers at the end of the day.

We received completed data forms from all observers except four polling places, yielding 96% success rate for completing and submitting data. This high rate was achieved in part through personal follow-up by our volunteer coordinator. Although we centralized the reporting process very effectively, it was difficult to keep track of belated reports that trickled in separately from other files. Best practices include careful follow-up and an organizational method for consolidating all reports, recognizing that some data arrives over time. It is also helpful to arrange in advance which members or volunteers will share the task of reading information that comes in.

Public engagement in Miami-Dade County has been heightened both by historic problems with the new voting technology and by activism that has given the public a way to participate in exposing problems and pushing for solutions. MDERC sought to involve observers both for the practical purpose of monitoring election problems and also to educate the public about the fundamental problem of electronic ballots: the complete lack of transparency in voting procedures which makes it impossible for the voter to verify the way the ballot was recorded. At all stages of vote counting, an observer can keep track of the handling of electronic machines and media, but cannot observe the ballot itself. Voters in Miami are also concerned about years of voting problems that have disproportionately impacted minority voters. To make the most of this energy and initiative, organizing before the election is critical.

B. Choosing Polling Places to Observe.

Choosing polling places for observation is a vital part of the project. While problems can happen anywhere, some polling places have a history of organizational trouble and some are part of communities that have suffered problems historically with voter participation. Assignments must combine the practical needs of observers with community coverage and attention to areas that have historically had voting discrepancies.

It is helpful to obtain the following information in advance: a list of polling places; a map of precinct locations; the number of registered voters at each precinct, including demographic information; lists of precincts sharing the same locations; and a county map with demographic information, if available (this can sometimes be obtained from the local planning department).

Armed with this information, you should gather your core group of volunteers and go through the list of precincts, to select a good cross section of small precincts, large precincts, precincts in affluent neighborhoods, as well as poorer neighborhoods, and precincts covering the different demographics of your county or municipality. Be aware that many of your volunteers will ask you for permission to observe their home precincts. While this is inevitable, try to encourage your volunteers to go to other precincts and

certainly make sure that your core volunteers agree to go to a diverse sampling of precincts.

C. The importance of advance planning for diversity and equality.

In the first few poll closing observation projects, MDERC found it relatively easy to target precincts and communities with histories of voting problems. Our first two projects chose from the list of 31 precincts that had reported the most problems in the disastrous September 2002 primary election. These precincts had a higher percentage of African-American voters than the county as a whole. For the November 2004 election, we reviewed the list from September 2002, looking particularly for precincts that had failed to report the number of voter signatures in the August 2004 primary or had reported a discrepancy between the number of voters and number of ballots cast. We added precincts for racial and ethnic diversity, and those that would cover different geographic sections of the county. Ultimately, we received data from 31 polling places in November 2004. For the September 2006 primary, we chose a variety of locations including some of the largest precincts in the County.

In November 2006, the precincts we observed included 24.21% of White registered voters in Miami-Dade County, 14.54% of Black registered voters, and 18.39% of Hispanic voters. Eleven of these precincts had been included on the list of troubled precincts originally developed from the September 2002 election. We were pleased with the huge scope of the project and its geographic sweep, but we learned that advance planning is critical to choosing the precincts for observation.

In November 2006, we began organizing about four weeks before early voting began and recruited unexpectedly large numbers of volunteers. We allowed most volunteers to choose polling places based on convenience and interest. Volunteer interest did provide some diversity of locations, because many volunteers were specifically interested in observing polls with historic problems. We encouraged choices for racial and ethnic diversity. We also sent volunteers who were flexible to cover some of the historically troubled polling places and neighborhoods. Allowing people to select sites encouraged broad participation, but with advanced planning, an even better cross-section of the county can be covered. As a best practice, we recommend beginning well before the election with a review of troubled poll locations and community demographics. It is also important to recognize that both last-minute cancellations and last-minute volunteers are inevitable in such a large project. Best practices include developing three lists in advance: a set of high-priority precincts that are important to cover, additional precincts for coverage if more volunteers are available, and a list of flexible volunteers who are willing to change assignments if necessary to cover high-priority precincts.

In addition to the project in Miami-Dade County, volunteers in Pinellas County with VIA- Tampa Bay produced forms from eight polling places on election day. Observers organized by the ACLU in Escambia County observed three polling places in Pensacola. We do not have information on how these polling places were selected.

D. The observation itself.

1. The two observers per site rule.

Both MDERC and VIA-Tampa Bay strongly believe that two observers are necessary to attend each closing whether it is an early voting site or a precinct on Election Day. There is too much activity occurring simultaneously for one person to observe all the events and record all the necessary information. From the start of MDERC's poll closing work in 2003, two observers has been the norm. This is crucial. As a result of lessons learned, our forms are designed to divide the work for the observers into two parts. One observer focuses on the closing of the voting equipment and the second focuses on the paper activities such as reconciliation. Two observers also allow you to cope with the unexpected such as a machine breakdown or the situation that developed in Precinct 816 in November 2004¹⁵.

We believe that the two observer rule is particularly important when it comes to observing early voting. Early voting is particularly difficult to observe because what occurs at the closing of each early voting site in the days preceding election day is unlike the process of closing the polls on election night. Moreover, the closing of an early voting site on the last day of voting is a very complicated process which will require all of the skilled observers you have. Therefore, for early voting, we recommend that you proceed cautiously deploying observers. An experienced eye is necessary and it is recommended that a trained observer and an untrained observer be paired to collect this data.

2. Expecting the unexpected on election night.

The best way to prepare for the unexpected on election day is to create an election day team charged with quickly responding to issues that arise. The team names and contact telephone numbers should be provided to every observer. That is the easy part. Actually getting your election day team to respond effectively is the challenge. How do your election day team members respond effectively? First, they need to understand that there is often little that can be done to address problems that arise on election night. Therefore, your election day team members will really need to focus on differentiating between immediately resolvable problems and problems which are not resolvable but need to be documented for later study.

What problems are resolvable? Examples include poll workers who get lost or forget where they are supposed to be. This sounds self evident but it is worth repeating: All of your team members must have a copy of the roster of poll workers and where they are supposed to be (Exhibits H and F). Your team members will also need a cross reference for polling locations and precinct numbers.

¹⁵ See Exhibit A for a copy of Get It Right.

The myriad of problems that cannot be resolved on election night is endless. They include everything from observers being denied access to observers calling because there are large discrepancies or tabulation problems. Here, your team members need to be trained to act like doctors: they are to do no harm. This means that they need to calm the tempers and lift the spirits of the observers. The team members must be the reassuring and calming voices. They must “get the facts” and document them. They must also remind the observers that this is an observation and that in an observation, answers may not come immediately.

3. *Finishing with a bang.*

By the time that the poll closing observation actually comes around, there will be little for your group to do in terms of tweaking the observation or imparting new wisdom on your observers. The degree to which the observation runs itself is actually a sign of how well your group planned and executed the whole process. Therefore, if you are tempted to do last minute meddling, resist the urge! Also, do not fret if you and your core group go off to perform your own observations at your assigned precincts and the evening slips away quietly. Also, do not be alarmed if you are inundated with calls from observers seeking help. Just follow the helpful hints above and deal with problems that arise as professionally as possible. Remember at this stage that the goal is to gather your data for further study.

E. *The media on election night.*

Because of the intense media scrutiny elections receive, and because, by election night, chances are that you and your core volunteers will be on a first name basis with local reporters as a result of your outreach work for this project, chances are you and your core group will be asked by the media to provide comments and reactions about the election. We recommend that you resist the urge to make broad conclusions about the conduct of the election as a whole. Remember, you are in the process of observing. Your data is being collected and has yet to be analyzed. Therefore, you really have no business making general conclusions. You can, however, give specific relevant examples. To illustrate the point, a reporter asks you whether you believe the tabulation ran smoothly. You respond by stating: “I cannot comment on the tabulation as a whole but I can report that one of our observers just called to say that at precinct X, the poll workers had a large discrepancy of over 100 votes between the number of people who showed up to vote and the number of votes cast.” The reporter follows up and states: “What does this mean for the election?” You answer: “I do not know the answer to that.”

Select your media spokespeople ahead of time and instruct your team and your observers to refer all media inquiries to them. This is important because the comments being made to the media by your group must be consistent and unified. Also, to the extent possible, make sure your media spokespeople communicate with one another in order to discuss how everyone is to respond to certain questions.

If members of the media offer to observe a poll closing with one of your teams, take them up on it. Make sure they observe with one of your experienced team members and make sure your observer can explain the process clearly and correctly to the members of the media. This is a good opportunity for your group to serve as a resource and to educate the media on poll closings. You should also offer members of the media the option to observe poll closings with your group. Some reporters may not even know that this process takes place or that they can observe so do not be afraid to inform them of the option.

F. Data Collection and Reporting.

1. *The basics of gathering your data.*

The project volunteer, through their observations, helps to insure confidence in the election process. All observations are important. Therefore, all forms must be collected. At times, observers will assume that if their observations were “uneventful”, or perhaps incomplete, that they need not turn their forms in. You must assure your observers that all observations are necessary and important in order to get a clear and complete picture. Again, in the initial stages of data collection and analysis, it is important to resist the urge to “jump to conclusions” about findings, especially when speaking with the media or individuals outside the organization. Patterns and trends begin to emerge only after a complete analysis of all the forms received. Therefore it is critical to have a complete picture of the data received before issuing a report of the conclusions and recommendations.

The best advice we can give you to maximize the gathering all of your data is to pester your observers early and often. As soon as the tabulation is complete, send out an e-mail congratulating your observers for having completed their observations and asking them to please get the forms back to you immediately. Provide your observers with as many ways as possible to get the forms back to you. Mail, fax, e-mail and hand delivery are all viable options so do not discount one method or another. Also, keep a list of who has turned in forms and gently pester those observers who have not turned in their forms.

2. *Storing and organizing the data.*

The first thing to remember in terms of storing your data is the following rule of thumb: Before all else, organize and duplicate. What does this mean? Once you receive all of your observer forms, organize them in a logical way. We find that organizing them by precinct works very well. After that, make one or more copies of the forms. That way, you can store the originals in case they are needed and use the copies to work from (thus the term “working copies”). Decide on a method for digesting the data. Here, look to other organizations, including VerifiedVoting Foundation, for assistance with digesting your data. VerifiedVoting Foundation is a very good example of an organization that provides a database for data collection and digesting. They can even run reports analyzing different aspects of your data. The Coalition worked with VerifiedVoting foundation for its 2006 Project and we found the collaboration very helpful.

When uploading data to a database, the anonymity of the individual observers must always be protected. MDERC chose to assign numbers to its volunteers to ensure volunteer anonymity. We also chose to pay someone to input the data collected into the VerifiedVoting Foundation.org database. We decided on this course of action because we did not want to burden our observers with yet another task. If you have the extra money, we think you would consider it worthwhile to get assistance with data entry.

3. *Studying the data.*

There are many ways to put your data to good use. The first, and least time consuming, is to share your data with other organizations who are interested in studying it or making it available for study. In our 2006 Project, as stated above, we shared our data with VerifiedVoting Foundation.org. As set forth above, we entered our data into the VerifiedVoting Foundation.org database and the data is now available to anyone interested in studying it.

In 2004, we chose to take our data and study and examine it, in the preparation of our Get It Right report. The experience of preparing that report was intensely time consuming and very demanding. In all, volunteers gave hundreds of hours to the preparation of our 2004 report. The task was truly consuming. However, the positives outweighed the negatives. The report received national attention and is widely regarded as a model grassroots effort in the area of election observation.

If you are looking to issue a full report on your findings, here are some basic hints. Keeping in mind that the report will require a substantial time commitment and lots of teamwork, a retreat organized to discuss and create an outline of the report is highly recommended. At the retreat, decide on the direction and form that the report will take. Do not underestimate the importance of selecting and delineating the areas you wish to report on. Figure out ways of presenting raw data in a cohesive and logical way. Tables and charts are very good for this purpose. Remember to understand the limitations of your data. This means that if your data does not present answers in a certain area, do not try to force it. There is nothing worse for the credibility of your efforts than trying to reach a conclusion from data that either does not support or does not speak to your conclusion.

On the human side, look at other reports by local groups in your community and around the country, in order to get an idea of style, format and content. Also, speak to researchers you know or who live in your community and ask them to provide you with basic assistance. College professors are a great source here. Be sure to equally divide the workload between group members so as to lighten the load on everyone. A second retreat is useful to put the pieces together, to discuss and edit the report, and to apply for any other public records deemed necessary to address issues that arose from problem precincts.

Upon completion of the final report, organize a press release announcing the conclusions and recommendations formed as a result of the data analysis, as well as where the information may be found for public consumption.

G. The aftermath.

After your project has been completed, please keep in mind the following things: Do not forget to report your findings to your observers. In conducting the observations, they became invested in what you were doing. Therefore, you need to circle back to them and show them the end product. Remind them that their contribution was vital to your end product and that you could not have done the work without them. Make sure you keep them apprised of future observations. We are often surprised about how many repeat observers we get. It is a sign of both the intense interest that people have in elections, and the allure of your project.

Create concrete action items around your findings. In order for your project to come full circle, the civic engagement and civic participation engendered by your project must result in tangible road maps for positive change. Therefore, to the extent possible, use what you learned to make helpful suggestions for better election night practices, propose solutions, and demand results. Also, do not be afraid to expose problems and flaws in the system. When you do so, be careful not to overstate the problem or flaw. Be as precise as possible but be firm and stand by your work. Over the years, the Coalition has uncovered many flaws in vote tabulation as a result of our observations. We have not been shy about publicly exposing those flaws. However, before doing so, we have been careful to about not over selling our case and about getting our facts perfectly straight.

Hopefully, the joy and satisfaction you derive from putting together a poll closing observation project will cause you and your group to repeat the practice over and over, involving more and more citizens each time.

CONCLUSION

The methodology presented in this report is intended to empower members of the public to monitor poll closings while providing them with a structure for meaningful observation; serve as a tool for civic participation; serve as the jumping off point for further study and analysis; illustrate the lack of transparency of current voting systems; and develop new methodologies for observation, study and analysis. As a result, it is our hope that every day citizens from communities across the country can use this report as a starting off point for their own observation projects. The ideas, hints and forms that are part of this report are intended to be replicated, copied, and improved upon. Moreover, the report is intended to start a dialogue in communities across the country, so that every day citizens who wish to make a positive contribution to voting in our nation are not relegated to having theoretical discussions but can themselves become actors and agents for positive change.

Civic involvement in our democracy starts when we provide our every day citizens with the tools to actually bring about change. The Coalition believes that its poll closing observation project does just that. We look forward to your feedback.